

House File 678 - Introduced

HOUSE FILE _____
BY ALONS and BAUDLER

Passed House, Date _____ Passed Senate, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to minors and public intoxication or possession
2 of alcohol.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
4 TLSB 1046YH 82
5 rh/je/5

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1 1 Section 1. Section 123.46, Code 2007, is amended by adding
1 2 the following new subsection:
1 3 NEW SUBSECTION. 3A. If a person under the age of eighteen
1 4 commits a violation of this section, the matter shall be
1 5 disposed of in the manner provided in chapter 232.
1 6 Sec. 2. Section 123.46, subsection 4, Code 2007, is
1 7 amended to read as follows:
1 8 4. a. A peace officer shall make a reasonable effort to
1 9 identify a person under the age of eighteen who violates this
1 10 section and, ~~if the person is not referred to juvenile court,~~
~~1 11 the law enforcement agency of which the peace officer is an~~
~~1 12 employee shall make a reasonable attempt to notify the~~
1 13 person's custodial parent, ~~or legal guardian, or custodian of~~
1 14 the violation, ~~whether or not the person is taken into~~
~~1 15 custody, unless the officer has reasonable grounds to believe~~
~~1 16 that notification is not in the best interests of the person~~
~~1 17 or will endanger that person pursuant to section 232.19,~~
1 18 subsection 2.
1 19 b. The peace officer shall also make a reasonable effort
1 20 to identify the elementary or secondary school which the
1 21 person attends if the person is enrolled in elementary or
1 22 secondary school and to notify the superintendent or the
1 23 superintendent's designee of the school which the person
1 24 attends, or the authorities in charge of the nonpublic school
1 25 which the person attends, of the violation. ~~If the person is~~
~~1 26 taken into custody, the~~ The peace officer shall notify a
1 27 juvenile court officer who shall make a reasonable effort to
1 28 identify the elementary or secondary school the person
1 29 attends, if any, and to notify the superintendent of the
1 30 school district or the superintendent's designee, or the
1 31 authorities in charge of the nonpublic school, of the
1 32 violation. A reasonable attempt to notify the person
1 33 includes, but is not limited to, a telephone call or notice by
1 34 first-class mail.
1 35 Sec. 3. Section 123.47, subsection 3, paragraph c, Code
2 1 2007, is amended to read as follows:
2 2 c. If ~~the a person who under the age of eighteen~~ commits a
2 3 violation of this section ~~is under the age of eighteen~~, the
2 4 matter shall be disposed of in the manner provided in chapter
2 5 232.
2 6 Sec. 4. Section 123.47B, Code 2007, is amended to read as
2 7 follows:
2 8 123.47B PARENTAL AND SCHOOL NOTIFICATION == PERSONS UNDER
2 9 EIGHTEEN YEARS OF AGE.
2 10 1. A peace officer shall make a reasonable effort to
2 11 identify a person under the age of eighteen discovered to be
2 12 in possession of alcoholic liquor, wine, or beer in violation
2 13 of section 123.47 and ~~if the person is not referred to~~
~~2 14 juvenile court, the law enforcement agency of which the peace~~
~~2 15 officer is an employee shall make a reasonable attempt to~~
2 16 notify the person's custodial parent, ~~or legal guardian, or~~
2 17 custodian of such possession, ~~whether or not the person is~~
~~2 18 arrested or a citation is issued pursuant to section 805.16,~~
~~2 19 unless the officer has reasonable grounds to believe that such~~
~~2 20 notification is not in the best interests of the person or~~

2 21 will endanger that person pursuant to section 232.19.
2 22 subsection 2.

2 23 2. The peace officer shall also make a reasonable effort
2 24 to identify the elementary or secondary school which the
2 25 person attends if the person is enrolled in elementary or
2 26 secondary school and to notify the superintendent or the
2 27 superintendent's designee of the school which the person
2 28 attends, or the authorities in charge of the nonpublic school
2 29 which the person attends, of the possession. ~~if the person is~~
2 30 ~~taken into custody, the~~ The peace officer shall notify a
2 31 juvenile court officer who shall make a reasonable effort to
2 32 identify the elementary or secondary school the person
2 33 attends, if any, and to notify the superintendent of the
2 34 school district or the superintendent's designee, or the
2 35 authorities in charge of the nonpublic school, of the taking
3 1 into custody. A reasonable attempt to notify the person
3 2 includes but is not limited to a telephone call or notice by
3 3 first-class mail.

3 4 Sec. 5. Section 232.8, subsection 1, paragraph b, Code
3 5 2007, is amended to read as follows:

3 6 b. ~~Violations Except for violations by a child of section~~
3 7 ~~321.284 or 321.284A, violations by a child of provisions of~~
3 8 chapter 321, 321G, 321I, 453A, 461A, 461B, 462A, 481A, 481B,
3 9 483A, 484A, or 484B, which would be simple misdemeanors if
3 10 committed by an adult, and violations by a child of county or
3 11 municipal curfew or traffic ordinances, are excluded from the
3 12 jurisdiction of the juvenile court and shall be prosecuted as
3 13 simple misdemeanors as provided by law. A child convicted of
3 14 a violation excluded from the jurisdiction of the juvenile
3 15 court under this paragraph shall be sentenced pursuant to
3 16 section 805.8, where applicable, and pursuant to section
3 17 903.1, subsection 3, for all other violations.

3 18 Sec. 6. Section 321.284, Code 2007, is amended to read as
3 19 follows:

3 20 321.284 OPEN CONTAINERS IN MOTOR VEHICLES == DRIVERS.

3 21 1. A driver of a motor vehicle upon a public street or
3 22 highway shall not possess in the passenger area of the motor
3 23 vehicle an open or unsealed bottle, can, jar, or other
3 24 receptacle containing an alcoholic beverage. "Passenger area"
3 25 means the area designed to seat the driver and passengers
3 26 while the motor vehicle is in operation and any area that is
3 27 readily accessible to the driver or a passenger while in their
3 28 seating positions, including the glove compartment. An open
3 29 or unsealed receptacle containing an alcoholic beverage may be
3 30 transported in the trunk of the motor vehicle. An unsealed
3 31 receptacle containing an alcoholic beverage may be transported
3 32 behind the last upright seat of the motor vehicle if the motor
3 33 vehicle does not have a trunk. A person convicted of a
3 34 violation of this section is guilty of a simple misdemeanor
3 35 punishable as a scheduled violation under section 805.8A,
4 1 subsection 14, paragraph "e".

4 2 2. ~~If a person under the age of eighteen commits a~~
4 3 ~~violation of this section, the matter shall be disposed of in~~
4 4 ~~the manner provided in chapter 232.~~

4 5 Sec. 7. Section 321.284A, Code 2007, is amended by adding
4 6 the following new subsection:

4 7 NEW SUBSECTION. 5. If a person under the age of eighteen
4 8 commits a violation of this section, the matter shall be
4 9 disposed of in the manner provided in chapter 232.

4 10 Sec. 8. Section 805.8A, subsection 14, paragraph e, Code
4 11 2007, is amended to read as follows:

4 12 e. OPEN CONTAINER VIOLATIONS. For violations under
4 13 sections 321.284 and 321.284A, the scheduled fine is one
4 14 hundred dollars. ~~This paragraph shall not apply to a person~~
4 15 ~~under the age of eighteen who commits a violation under~~
4 16 ~~section 321.284 or 321.284A.~~

4 17 Sec. 9. Section 805.8C, subsection 7, Code 2007, is
4 18 amended to read as follows:

4 19 7. ALCOHOLIC BEVERAGE VIOLATIONS BY PERSONS UNDER LEGAL
4 20 AGE. For first offense violations of section 123.47,
4 21 subsection 3, the scheduled fine is two hundred dollars. ~~This~~
4 22 ~~subsection shall not apply to a person under the age of~~
4 23 ~~eighteen who commits a violation of section 123.47.~~

4 24 Sec. 10. Section 805.16, subsection 1, Code 2007, is
4 25 amended to read as follows:

4 26 1. Except as provided in this subsection and in subsection
4 27 ~~2 of this section~~, a peace officer shall issue a police
4 28 citation or uniform citation and complaint, in lieu of making
4 29 a warrantless arrest, to a person under eighteen years of age
4 30 accused of committing a simple misdemeanor under chapter 321,
4 31 321G, 321I, 461A, 461B, 462A, 481A, 481B, 483A, 484A, 484B, or

4 32 a local ordinance not subject to the jurisdiction of the
4 33 juvenile court, and shall not detain or confine the person in
4 34 a facility regulated under chapter 356 or 356A. This
4 35 subsection shall not apply to a person under the age of
5 1 eighteen for violations of section 123.46, 123.47, 321.284, or
5 2 321.284A.

5 3 EXPLANATION

5 4 This bill relates to minors and public intoxication or
5 5 possession of alcohol.
5 6 The bill provides that a person under the age of 18 (minor)
5 7 who commits the crime of public intoxication pursuant to Code
5 8 section 123.46 or who is found to be in possession of alcohol
5 9 pursuant to Code section 123.47, including open container
5 10 violations that occur in a motor vehicle pursuant to Code
5 11 section 321.284 or 321.284A, shall be subject to the
5 12 jurisdiction of the juvenile court under Code chapter 232.
5 13 Under Code chapter 232, once a minor is taken into custody,
5 14 the person taking the minor into custody must notify the
5 15 minor's parent, guardian, or custodian as soon as possible.
5 16 Unless the minor is placed in shelter care or detention
5 17 pursuant to Code section 232.21 or 232.22, the minor shall be
5 18 released to the minor's parent, guardian, custodian,
5 19 responsible adult relative, or other adult approved by the
5 20 court upon the promise of such person to produce the minor in
5 21 court at such time as the court may direct.
5 22 The bill makes conforming Code changes to provisions
5 23 relating to notification of a minor's custodial parent, legal
5 24 guardian, or custodian by a peace officer and citations issued
5 25 in lieu of arrest by a peace officer to a minor who commits
5 26 the crime of public intoxication pursuant to Code section
5 27 123.46 or who is found to be in possession of alcohol pursuant
5 28 to Code section 123.47, including open container violations
5 29 that occur in a motor vehicle pursuant to Code sections
5 30 321.284 and 321.284A, consistent with the bill.
5 31 LSB 1046YH 82
5 32 rh:rj/je/5